

DIVISION IV

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR
PUBLICATION
LARRY D. VAUGHT, JUDGE

CA05-1095

April 26, 2006

PATRICIA HOLLAND
APPELLANT

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F213337]

V.

HELENA REGIONAL MEDICAL
CENTER and ROYAL INDEMNITY
COMPANY
APPELLEES

AFFIRMED

Appellant Patricia Holland appeals following the decision of the Workers' Compensation Commission finding that she failed to prove by a preponderance of the evidence that she had sustained a compensable injury. We affirm.

On June 6, 2002, Holland was working a second shift as a registered nurse at Helena Regional Medical Center (HRMC) when she claims to have injured her back while caring for a patient. Holland, a thirty-two-year employee of HRMC, worked her first shift that day—from seven to three—as a nurse manager, a job that required her to do mostly administrative duties. She returned to the hospital at seven in the evening to work a second shift as a staff nurse, a position that required her to assist patients and perform more traditional nursing duties. Holland alleges that sometime between nine and ten that evening, as she was leaning over a patient, she felt a “sharp pain that went all the way down the leg into the foot and it felt like the whole leg was in a muscle spasm.” She described that pain as “severe” and said that she immediately had to sit down because of the pain. After a few minutes, she made

her way back to the nurses' station. She stated that she was hurting "real bad" and that the pain was so intense she was crying. She immediately contacted her supervisor, Regina Moody, and told her that she needed to go home because her back was hurting. Holland admitted that she was unsure whether she told the supervisor that she had hurt herself on the job. Moody informed Holland that no one was available to cover her shift and that she would have to continue working. Holland then found another on-duty nurse to work for her. She testified that after securing another nurse, she called the emergency room and talked with Dr. Bell, her family doctor, who happened to be on-call at the hospital that evening.

Holland admitted that she was aware of workers' compensation requirements, that she had trained other employees on what to do in the event of a workers' compensation injury, and that she neither reported her injury as work related nor filed a workers' compensation claim. She admitted that November 27, 2002, was the first time she indicated that the injury was work related.

Dr. Bell's deposition testimony was presented at the hearing. He corroborated that Holland had been a patient at his clinic for many years. He indicated that Holland saw his partner, Dr. Winston, on January 15, 2001, for back pain. He noted that his records also evidenced that he saw her on May 7, 2002, for a lumbar muscle spasm. He testified that at that visit, she complained of her legs feeling heavy and low-back pain. He stated that on the day of the alleged incident, he saw Holland at the beginning of and in the course of her shift. He testified that when he saw her, her pain was so severe that she could not put weight on her leg and she was crying. He admitted that he had not witnessed the incident that caused her pain and that he was unsure whether Holland had called him to the nurse's station or whether he had just happened by on the way to see patients. Regardless, he stated that when he saw her, she was leaning over the nurse's station in severe pain. Bell stated that she was in

obvious pain and had visible muscle spasms. He admitted her to the hospital immediately.

Dr. Bell released Holland from the hospital on June 11 and referred her to Dr. Ron Williams, a neurologist. Medical records indicate that Dr. Williams performed a microdiscectomy on June 21, 2002, after an MRI discovered “changes of degenerative disk disease at L3-4, L4-5, and L5-S1 ... moderate-sized left paracentral disk herniation at L5-S1 ... mild disk bulge ... at L3-4 and L4-5.” His records also indicate that Holland had suffered from low-back pain for years. As a result of the surgery, Dr. Williams assigned Holland a ten-percent impairment to her body as a whole. Additionally, he released her as of August 8, 2002, as maximally medically improved. Holland saw Dr. Bell on December 20, 2002, following her surgery, for lumbar radiculopathy, for which he gave her some pain medication and muscle relaxers.

In a letter dated March 6, 2003, Dr. Bell stated that Holland’s injury was “diagnosed while at work” and a “result of years of progressive deterioration.” During his deposition, Dr. Bell indicated that he believed Holland’s back problems were an ongoing condition and part of a normal person’s deterioration due to age. However, he stated that the incident on June 6, 2002, could have been the “straw that broke the camel’s back.”

A prior MRI, performed in September 2001, showed hypertrophic spur formation on L4 and L5 and mild facet joint osteoarthritis at L4 and L5. The radiologist noted that Holland had mild degenerative change of the lumbar spine consistent with the patient’s history of low-back pain. Medical records also indicate that Holland was seen at HRMC on May 20, 2002, complaining of nausea, vomiting, and back pain. Additionally, HRMC records from the day of the alleged incident indicate that Holland was admitted to the hospital at 10:20 p.m., that she had taken 500 mg of Tylenol at 7:00 p.m., and that she reported that she had felt pain since 5:00 p.m. that had steadily gotten worse.

Holland argues that there was substantial evidence to support a finding that she sustained an accidental injury as a result of a specific incident that occurred on June 6, 2002.¹ When reviewing a decision of the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the findings of the Commission, and we affirm that decision if it is supported by substantial evidence. *Searcy Indus. Laundry Inc. v. Ferren*, 82 Ark. App. 69, 110 S.W.3d 306 (2003). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* at 72, 110 S.W.3d at 307. We will not reverse the Commission’s decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the conclusions arrived at by the Commission. *Id.*, 110 S.W.3d at 307. In making our review, we recognize that it is the function of the Commission to determine the credibility of witnesses and the weight to be given their testimony. *Id.*, 110 S.W.3d at 307. Furthermore, the Commission has the duty of weighing medical evidence and, if the evidence is conflicting, its resolution is a question of fact for the Commission. *Id.*, 110 S.W.3d at 307. We review the opinion of the full Commission, not of the Administrative Law Judge. *Daniels v. Affiliated Foods Southwest*, 70 Ark. App. 319, 17 S.W.3d 817 (2000).

Arkansas Code Annotated § 11-9-102(4)(A) (Supp. 2005) defines “compensable injury” as “[a]n accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services An injury is ‘accidental’ only if it is caused by a specific incident and is identifiable by time and place of occurrence.”

The Commission based its decision finding that Holland failed to establish that she

¹Although this case was filed as a specific-injury case and proceeded on that basis, Holland attempted, at the hearing before the Administrative Law Judge, to amend her pleadings to include an alternative claim that she suffered a gradual-onset injury. The ALJ denied that request, and the issue of whether the evidence in this case supports a theory of gradual-onset injury is not before us on appeal.

suffered a specific injury on several facts—that a specific injury was not noted in the medical reports from the day of her alleged injury through her hospital discharge; that Dr. Williams did not attribute her herniated disk to an accidental injury; that Dr. Bell attributed Holland’s injury to years of deterioration; and that Holland herself never claimed the injury as compensable until months after her surgery.² Additionally, Holland had a history of back problems, as testified to by Dr. Bell and noted by Dr. Williams. Furthermore, the medical records from the day she was hospitalized show that her back began hurting before her evening shift began. Based on that evidence, we are satisfied that substantial evidence supports the decision of the Commission.³

Affirmed.

GLADWIN and CRABTREE, JJ., agree.

²The Commission also noted that Dr. Bell’s testimony and Holland’s testimony was inconsistent. This, however, was an incorrect assumption on the part of the Commission. In his deposition, Bell stated that when he saw Holland, she was leaning over the nurse’s station. The Commission believed that this was inconsistent with Holland’s statement that she injured herself while leaning over a patient. The Commission was mistaken. Dr. Bell did not say that Holland injured herself at the nurse’s station. Rather, he said that she had done so sometime before he saw her at the station.

³Because we hold that the Commission did not err in finding Holland failed to prove she suffered a compensable injury, we need not address whether her claim was barred by Ark. Code Ann. § 11-9-701 (Repl. 2002).